

Fair Housing Is Your Right



**State of Montana Human Rights Bureau
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The Human Rights Bureau is committed to making its services available to persons with disabilities in compliance with Title II of the Americans with Disabilities Act and relevant state law. The Bureau will not exclude persons with disabilities from participation at its meetings or otherwise deny them their services, programs, or activities. The Bureau will also provide and accept information in alternative formats to accommodate disabilities. Persons with disabilities requiring accommodation in order to take advantage of the Bureau's services should contact the Bureau's staff.

DISCRIMINATION IN HOUSING IS PROHIBITED IF BASED ON THESE PROTECTED CLASSES

Age (all ages)

Religion, Creed

Marital Status

Physical or Mental Disability

Race, Color, National Origin

Familial Status (presence of children under 18 years of age)

Sex (sexual harassment, pregnancy & caregiver)

Political Belief (state and local government service)

WHAT TYPE OF HOUSING IS COVERED?

Montana and federal fair housing laws cover most types of housing. The law exempts owner-occupied sleeping rooms in a private residence, provided the owner rents no more than 3 rooms within the residence.

EXCEPTION FOR HOUSING FOR OLDER PERSONS

Housing for older persons is exempt from the familial status and age provisions of Montana fair housing law **if** the units:

- › Are occupied solely by persons who are 62 or older, or
- › At least one person who is 55 or older resides in 80% of the occupied units, and owners publish and adhere to written policies and procedures that demonstrate the housing is intended and operated for persons 55 and older.

IF BASED ON A PROTECTED CLASS, THE FOLLOWING ACTIONS ARE PROHIBITED

- › Printing, or publishing any advertisement or statement that indicates a limitation or preference in the area of housing
- › Refuse to rent or sell housing or otherwise deny entry into a neighborhood
- › Set different terms, conditions, facilities, services or privileges for sale or rental of a housing unit
- › Ask about a buyer's or renter's protected class
- › Represent that available housing is not available for inspection, sale or rental
- › For profit, persuade owners to sell or rent
- › Deny reasonable accommodations, at their expense, to persons with disabilities, in sales, rental and terms and conditions
- › Refuse to make or purchase a mortgage loan, or fail to provide information regarding loans
- › Impose different terms or conditions on a loan, such as different interest rates, points or fees
- › Discriminate in appraising property

It is illegal for anyone to retaliate against an individual who has filed a housing discrimination complaint, or participated in an investigation of a housing discrimination complaint.

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HUMAN RIGHTS BUREAU PROCESS

The Montana Department of Labor and Industry is the state agency which enforces Montana's discrimination laws. For additional information, please visit our website at www.montanadiscrimination.com

- › **The Human Rights Bureau** informally investigates complaints of illegal discrimination as a neutral party. The Human Rights Bureau also offers voluntary mediation in complaints of illegal discrimination, and is committed to providing education to both property owners and tenants alike.
- › **The Hearings Bureau** of the Department of Labor and Industry conducts formal public hearings of discrimination cases.
- › **The Montana Human Rights Commission** is a five member panel of private citizens appointed by the Governor. The Commission hears appeals of decisions by the Hearings examiner and the Human Rights Bureau.

THE PROCESS

Intake A person who believes he or she is a victim of illegal discrimination should contact the Montana Human Rights Bureau. An investigator will take the information by telephone and draft a complaint if the facts indicate that illegal discrimination may have occurred. A formal complaint must be filed within 180 days of the alleged discriminatory action. The time limit for filing may be extended up to 300 days if a formal grievance procedure is invoked.

Mediation Once the case has been filed, the parties have the option of working with a mediator to try to resolve the dispute. Mediation is voluntary, non-binding and must be agreed to by both parties.

Investigation If the case is not resolved through mediation, an informal investigation will be conducted to determine if illegal discrimination occurred. The investigation must be completed within 120 days after the case is filed. If "no cause" is found to believe illegal discrimination occurred, the person who filed the case is given the right to sue and may file in district court, or appeal the decision to the Human Rights Commission

Conciliation If "reasonable cause" is found to believe illegal discrimination occurred, a conciliator with the Human Rights Bureau is available to work with the parties to reach a resolution, prior to a public hearing.

Public Hearing If conciliation is not possible, a hearings examiner with the Department of Labor and Industry's Hearings Bureau, conducts a formal hearing similar to a non-jury trial. The hearing examiner will issue a decision whether discrimination occurred and, if appropriate, award damages. The decision can be appealed to the Montana Human Rights Commission.

Remedies For Discrimination If the Department finds that unlawful discrimination has occurred it is empowered to order the respondent to:

1. Cease the discriminatory conduct
2. Rectify any harm through the payment of back pay or other actual damages; and
3. Participate in Affirmative Relief to eliminate future discriminatory practices
4. Pay a civil penalty

The Department of Labor and Industry may seek enforcement of an order in district court.

If you don't report housing discrimination it can't be stopped. Retaliation, harassment, intimidation or interfering with a person who is exercising their rights to equal housing is against the law!

**THE
HUMAN
RIGHTS
BUREAU
PROCESS**

Fair Housing Policy

POLICY & ADVERTISING

What is Prohibited?

In Advertising Montana and federal fair housing laws prohibit anyone from printing, or publishing any advertisement or statement that indicates a limitation or preference in the area of housing based on race, color, national origin, religion, creed, age, sex, marital status, familial status, or disability.

In Pre-Rental Inquiries The housing provider may obtain information required to make a determination on a person's ability to pay timely, follow the rules of tenancy and rental history, to determine if the potential renter is a qualified applicant.

The provider may not request information concerning the race, color, national origin, religion, creed, age, familial status, sex, marital status, or physical or mental disability when inquiring about or applying for housing.

Exemption: If the housing accommodation is bona fide housing for older persons and is in compliance with state and federal laws that apply to housing for older persons, the housing provider may ask for information regarding a person's age and familial status.

In Mortgage Lending Lenders may not take any of the following actions based on the protected classes:

- › Refuse to make a mortgage loan
- › Impose different terms or conditions on a loan, such as different interest rates, points or fees
- › Discriminate in appraising property
- › Refuse to purchase a loan
- › Set different terms or conditions for purchasing a loan



What Housing Providers Can Do To Prevent Discrimination

- › Develop and post a written anti-discrimination policy and discipline those who engage in discriminatory behavior
- › Provide training for all managers and employees in fair housing law
- › Take immediate corrective action upon determining that discrimination has occurred
- › Apply standards equally to all tenants

What Renters and Buyers Can Do

- › Report incidents of discrimination to the salesperson or manager
- › If complaints are not resolved, report the discrimination to the broker or owner
- › Contact the Human Rights Bureau

WHEN APPLYING AND QUALIFYING FOR HOUSING, WHAT IS IMPORTANT ARE YOUR CREDIT HISTORY, REFERENCES AND YOUR ABILITY TO PAY.

Sexual Harassment in Housing Is Against the Law

The Montana Human Rights Act and the 1988 Federal Fair Housing Act prohibit discrimination in housing based on sex, protecting buyers and renters. Sex discrimination includes sexual harassment.



SEXUAL HARASSMENT IN HOUSING

What is Sexual Harassment?

Sexual Harassment of a potential buyer, renter or tenant includes unwelcome sexual advances, requests for sexual favors or other verbal or physical conduct of a sexual nature when:

- › Submission to the conduct is explicitly or implicitly made a term or condition of renting or purchasing a housing accommodation.
- › Submission to or rejection of the conduct is used as the basis for refusing to rent or sell a housing accommodation.
- › The conduct has the effect of unreasonably interfering with renting, making continued tenancy significantly less desirable, or creating an intimidating, hostile or offensive living environment.
- › Sexual Harassment is determined on a case by case basis. Acts which are offensive to one tenant or buyer may not be offensive to another. However, in addition to sexual assault, the following acts by a co-tenant, owner, on-site manager, property manager or agent may constitute sexual harassment.

Examples of Sexual Harassment

Repeated body contact
Constant leering or staring
Propositions or pressure to engage in sexual activity
Inappropriate comments concerning appearance
A pattern of renting to individuals based on gender
Harassing behavior based on an individual's gender

Impact of Sexual Harassment

Fear, emotional stress, & related illnesses
Violation of privacy
Disgruntled renters
High turnover in renters
Loss of sales

Women are not the only victims of sexual harassment. Men may also be harassed.
Renters often do not report harassment out of ignorance of the law or fear of reprisal.

Owner/Agent Liability

Owners and agents may be liable for monetary compensation and other forms of relief to buyers or renters who are victims of sexual harassment.

What Owners Should Do

The best tool for eliminating sexual harassment is prevention. The following steps will aid in preventing sexual harassment:

- › Develop and post a written policy defining and prohibiting sexual harassment and providing an effective procedure for reporting sexual harassment and disciplining those who engage in it.
- › Provide training for all managers and employees in sexual harassment prevention.
- › Express strong disapproval of any sexual conduct in housing, including jokes and comments which may be offensive.
- › Immediately investigate any report of sexual harassment by tenants or employees.
- › Take immediate corrective action upon determining that sexual harassment has occurred.
- › Inform renters and buyers of their rights to report sexual harassment to the Montana Human Rights Bureau or the United States Department of Housing and Urban Development.

What Renters Should Do

If you are offended by sexual jokes, comments or other sexual or gender-based conduct in your housing accommodations, immediately inform the manager. If your complaints are not resolved, you should take the following steps:

- › Report sexual harassment to the manager and the owner
- › Keep written records of the dates and facts of all sexual harassment and the names of witnesses
- › Contact the Human Rights Bureau or the federal Department of Housing and Urban Development at 1-800-669-9777



Denying Housing to Families with Children Is Against the Law

The 1988 Federal Fair Housing Act and the Montana Human Rights Act prohibit housing discrimination against families with children under the age of 18. Families cannot be denied housing of their choice simply because they have children.

The Law Protects:

- › Established Families with Children
- › Pregnant Women
- › Persons planning on having a family
- › Traditional and Non-traditional families, i.e. single parents
- › Persons in the process of securing legal custody of children through foster care, adoption or divorce.
- › Unique or unexpected circumstances which may change the composition of a family, such as the death of parents, temporary or permanent court ordered custody, or written permission from a parent or legal guardian.
- › Any other type of family composition, regardless of blood relation or affiliation that relates to cohabitation with children.

How to recognize housing discrimination

- › Landlords, property managers, or real estate agents generally will not directly state, “We don’t accept children” or “there are no kids allowed.” Discrimination against families with children is subtle.
- › The agent may simply refuse to rent to families or tell them the housing is not available when it is. They may refuse to sell, rent or even deal with a person because they have children or they may advertise or indicate the housing is available for only certain people (adults only).
- › There may be attempts to discourage families by changing the terms, conditions, services and facilities. Examples include: different rules, charging additional fees, or applying more burdensome rental criteria, larger deposits, increased water charges or higher rent based on the number of people or children in a family.
- › There may be attempts to impose occupancy standards which prevent children from residing in a development to steer families with children away from “adult only” areas.
All of these practices are illegal. These practices promote segregation and disrupt the housing market.

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Rights of Persons with Disabilities in Housing



The Montana Human Rights Act and the federal fair housing laws prohibit discrimination in housing against a person with a physical or mental disability. It is also unlawful to discriminate against persons who reside in a housing unit with a person with a disability or to discriminate against any person associated with a buyer, seller, or renter with a disability. To be protected under Montana and federal fair housing laws, a qualified buyer or renter must have a physical or mental impairment that substantially limits one or more major life activities, have a record of such an impairment, or be regarded as having such an impairment.

Reasonable Accommodation Modifications

Renters & Buyers have a duty to inform housing providers that an accommodation is needed and may have to pay for modification costs to the unit

Housing Providers may not refuse to rent or sell housing based on a person's disability. Where reasonable, may be required to pay for modification costs of common use facilities, and are required to allow service animals for tenants with disabilities.



Examples of Reasonable Accommodation in Housing

- › An apartment complex with a "no pets" policy must allow a visually impaired tenant to keep a guide dog.
- › The owner of a mobile home must allow a tenant, whose child is in a wheelchair to install a ramp to access the unit.
- › An apartment complex that offers tenants ample, unassigned parking must honor a request from a mobility-impaired tenant for a reserved space near her apartment if necessary to assure that she can have access to her apartment
- › A homeowner with a "no pets" policy must allow a tenant with a chronic mental illness to have a cat if medically necessary

An accommodation is not reasonable if it endangers any tenant's health or safety or creates an extraordinary hardship on the housing provider.

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